to the proceeds on principles analogous to equitable conversion.[10] This interest is usually protected by ordering a third of the surplus to be invested.[11] At least one court takes the third view that the wife mortgages her interest merely as surety for her husband, and protects her interest in the entire proceeds accordingly.[12] The first two views have almost equal support, but the last is generally discredited.[13] It should be remembered that a distinction might well be made between a mortgage which gives only a lien and one which passes title.

In the second class of cases mentioned, if a husband dedicates his land to the public, and it is accepted, the dower is destroyed.[14] To make it of any value to the widow would seriously inconvenience the public, and "the public [right] shall be preferred before the private."[15] Similarly, when a husband grants to a railroad for public use, the dower is gone.[16] When the state, or a railroad, takes land by eminent domain, it holds free from dower, though the wife was not a party to the proceedings. An early case states the ground to be that all the interest is in the husband.[17] But as the wife is now deemed to have a valuable interest, a better explanation is that this interest, not arising to an estate, is represented in the fee of the husband for purposes of condemnation and compensation.[18] It is well settled, however, that the wife's interest will be transferred from the land to the money given for it, and will be secured therein.[18] When the husband dedicates his land to the public, whether his wife would have against him any action, legal or equitable, is a question which seems not yet to have arisen. It is believed that he thus destroys a subsisting right of hers, for which she should have compensation.

UNCONSTITUTIONALITY OF THE AMENDMENT TO THE NEW YORK STOCK TRANSFER TAX. — On the ground of being in conflict with the constitutional provision for equal protection of the laws, New York has recently declared invalid an act imposing a stamp tax of two cents a share on the transfer of stock. *People ex rel. Farrington* v. *Mensching*, 187 N. Y. 8. This was a privilege tax, and to such a tax the requirement for equal protection of the laws applies.[1] Just as with a property tax one individual should not be assessed on his goods more, without a reason, than another individual of the same class on goods of equal value, so it is an unequal burden for the state to charge one person more for the same privilege than it charges another. The fault found with the statute in question is obviously of this sort. The privilege of transferring a hundred shares, worth a dollar a share, is no more valuable than the privilege of transferring one share worth a hundred dollars; yet the tax imposed in one case was two dollars and in

---

10 Denton *v.* Nanny, 8 Barb. (N. Y.) 618.

11 Vreeland *v.* Jacobus, 19 N. J. Eq. 231. But *cf.* Matter of Brooklyn Bridge, 75 Hun (N. Y.) 558.

12 Mandel *v.* McClave, 46 Oh. St. 407.

13 Burnet *v.* Burnet, 46 N. J. Eq. 144.

14 Duncan *v.* Terre Haute, 85 Ind. 104.

15 Co. Lit. 31 *b*.

16 Venable *v.* Wabash, etc., R. R. Co., 112 Mo. 103.

17 Moore *v.* Mayor of New York, *supra*.

18 Wheeler *v.* Kirtland, 27 N. J. Eq. 534. *Cf.* Canty *v.* Latterner, 31 Minn. 239.

1 State *v.* Ferris, 53 Oh. St. 314, 337; Magoun *v.* Illinois, etc., Bank, 170 U. S. 283, 300.

the other two cents. The holders of shares of low value were thus placed in a class assessed more heavily than the class of holders of shares of high value.[2]

Undoubtedly, much latitude is allowed legislatures in classifying the subjects of taxation; and probably the courts are more ready to see a possible reason for the classification made, even if convinced of its error themselves, than in any other sort of case introducing complaint as to unequal protection of the laws.[3] And to privilege taxes especial freedom has been given. License taxes for occupations are supported, though not graduated on the extent of the business of the different individuals of the same occupation.[4] A stamp tax may be imposed on agreements to sell made at exchanges, while not on agreements to sell made elsewhere.[5] And in the case of taxing the transfer of stocks or bonds, the classification of the values of the privileges taxed may be even on the basis of the securities' face value. This, though unquestionably unfair in cases where the real worth has fallen below par, is held to be a reasonable means of ascertaining the value of the privilege exercised, — this result being backed, no doubt, by the practical difficulty of determining the real value of such securities by any method.[6] An earlier form of the law, to which the statute complained of was an amendment, had been to this effect, and accordingly had been upheld.[7] But the amendment sought to make a classification that was fanciful and arbitrary. If only the tax had been for this fixed amount on the transfer of each certificate instead of on the transfer of each share, it might perhaps have been upheld on the analogy of the war stamp tax imposed by the federal government on every check for whatever amount drawn. But, as it was framed for the transfer of shares, a transferor was taxed little or much according to the accident of the division of his corporate securities into a less or greater number of shares. The possibility of a valid reason for not making the rate per cent an equal burden on all, for the lack of which courts are constrained to declare such statutes unconstitutional, was absent.

RECENT CASES.

ADMIRALTY — JURISDICTION — SUIT FOR HIRE OF DREDGE. — A sea-going hydraulic dredge which operated afloat was employed to mix and pump silt from a navigable river to certain meadow lands. Suit was brought for its hire. *Held*, that the non-maritime character of the employment does not oust admiralty of its jurisdiction. *Bowers Hydraulic Dredging Co.* v. *Federal Contracting Co.*, 148 Fed. Rep. 290 (Dist. Ct., S. D. N. Y.).

The court intimates that it would have refused jurisdiction in this case, but for a holding of the United States Supreme Court, in a case of damage caused to a structure by a ship, that the distinction between fixed and floating structures is artificial. *The Blackheath*, 195 U. S. 361. But that case is not directly in

---

[2] But *cf.* Cox *v.* Texas, 202 U. S. 446, 450.
[3] Connolly *v.* Union Sewer Pipe Co., 184 U. S. 540, 562, 563.
[4] St. Louis *v.* Sternberg, 69 Mo. 289; Cooley, Taxation, 3 ed., 261.
[5] Nicol *v.* Ames, 173 U. S. 509.
[6] Bell's Gap R. R. Co. *v.* Pennsylvania, 134 U. S. 232.
[7] People *ex rel.* Hatch *v.* Reardon, 184 N. Y. 431; aff. in U. S. Sup. Ct., Jan. 7, 1907. See 19 HARV. L. REV. 460.